UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DWAYNE FRANCIS,

Plaintiff,

-v-

PARKCHESTER DPS LLC, PARKCHETSER NORTH CONDOMINIUM, PARKCHESTER PRESERVATION MANAGEMENT, LLC, PARKCHESTER SOUTH CONDOMINIUM, INC., ANGEL FIGUEROA, CARLOS CAPELLA, LEONCIO PIMINTELL, EDWARD LEON, MICHAEL BUSHROD, PATRICE LONDON, and RICHARD ROE 1-4, in their individual capacities,

Defendants.

FOURTH AMENDED COMPLAINT AND DEMAND FOR A JURY TRIAL

Index No. 15-CV-7997 (VSB) (AJP)

Plaintiff Dwayne Francis, by his attorneys Gillian Cassell-Stiga and David B. Rankin of Rankin & Taylor, PLLC, for his Fourth Amended Complaint, does hereby state and allege:

PRELIMINARY STATEMENT

1. This is a civil rights action brought to vindicate plaintiff's rights under the Fourth and Fourteenth Amendments of the Constitution of the United States, through the Civil Rights Act of 1871, *as amended*, codified as 42 U.S.C. § 1983, along with pendent claims under the laws of the State of New York.
2. Plaintiff Dwayne Francis's rights were violated when licensed special patrolmen of the Parkchester Department of Public Safety unconstitutionally detained, assaulted, and arrested plaintiff despite the absence of probable cause in a manner constituting a gross abuse of authority. By reason of defendants' actions, plaintiff was deprived of his constitutional rights.
3. Plaintiff also seeks an award of compensatory and punitive damages and attorneys' fees.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction over federal claims pursuant to 28 U.S.C. §§1331, 1343(a)(3-4). This action is brought pursuant to 42 U.S.C. §§1983 and 1988 and the Fourth and Fourteenth Amendments to the Constitution of the United States.

5. Venue is proper pursuant to 28 U.S.C. §1391(b)(2) in that plaintiff's claim arose in the Southern District of New York.

6. An award of costs and attorneys' fees is authorized pursuant to 42 U.S.C. §1988.

PARTIES

7. Plaintiff Dwayne Francis is, and was at all times relevant to this action, a resident of the County of the Bronx in the State of New York.

8. Upon information and belief, Parkchester DPS LLC is a limited liability corporation with its principal place of business at 2000 East Tremont Avenue, Bronx, NY 10462, doing business as the Parkchester Department of Public Safety a/k/a Parkchester Public Safety & Security Department ("PDPS").

9. PDPS is an organization of "special patrolmen" within the meaning of N.Y.C. Admin. Code § 14-106, appointed by the New York City Police Commissioner and licensed by the City of New York, and authorized as New York State Peace Officers (hereinafter "Special Patrolmen"), who are employed to maintain the safety and security of residents and visitors in the privately owned residential community known as "Parkchester" in the County of the Bronx and State of New York.

10. PDPS is managed, supervised, and controlled, by Parkchester South Condominium, Inc., Parkchester Preservation Management, LLC, and Parkchester North Condominiun.

11. Upon information and belief, Parkchester South Condominium, Inc. ("PSC") is and was an unincorporated condominium association formed pursuant to the laws of the State of New York with its principal place of business at 2000 East Tremont Avenue, Bronx, NY 10462.

12. PSC manages, supervises, contracts, employs, and controls the PDPS and its officers for the provision of security services for its private residential community and buildings.

13. Upon information and belief, Parkchester North Condominium ("PNC") is and was a condominium association with its principal place of business at 2000 East Tremont Avenue, Bronx, NY 10462.

14. PNC manages, supervises, contracts, employs, and controls the PDPS and its officers for the provision of security services for its private residential community and buildings.

15. Parkchester Preservation Management, LLC ("PPM") is a limited liability corporation with its principal place of business at 2000 East Tremont Avenue, Bronx, NY 10462.

16. Upon information and belief PPM is the managing agent for the group of private condominiums and buildings known as "Parkchester", including PNC and PSC.

17. PPM manages, supervises, contracts, employs, and controls the PDPS and its officers for the provision of security services for the private residential community known as Parkchester.

18. Upon information and belief, the entities PSC, PNC, PPM, and PDPS are collectively referred to as "Parkchester" (hereinafter the "Parkchester Defendants"). Upon information and belief, the Parkchester Defendants are all jointly and severally liable for the actions of the Parkchester officer defendants because of their respective acts, omissions, and corporate responsibilities.

19. Upon information and belief, the Parkchester Defendants hire, train, and employ a staff of Special Patrolmen organized under the PDPS ("PDPS Special Patrolmen"), licensed as New

York City Special Patrol Officers, and authorized as New York State Peace Officers, to maintain the safety of its residents and visitors, including maintaining the PDPS. At all times relevant hereto, the Parkchester Defendants were responsible for the policy, practice, supervision, implementation, and conduct of all PDPS Special Patrolmen and were responsible for the appointment, training, supervision, and conduct of all PDPS Special Patrolmen. In addition, at all relevant times, the Parkchester Defendants were responsible for ensuring that PDPS Special Patrolmen, obey the laws of the United States and of the State of New York.

20. Upon information and belief, at all relevant times hereto, PDPS Special Patrolmen Angel Figueroa (Shield No. 2978) ("Figueroa"), Michael Bushrod (Shield No. 239), Carlos Capella, Leoncio Pimintell, Edward Leon, Sgt. Patrice London, and Richard Roe 1-4 (collectively the "individual defendants"), were Special Patrolmen of the PDPS, licensed by the City of New York and imbued with special police powers under N.Y.C. Admin. Code § 14-106, and were officers, employees and agents of the Parkchester Defendants, employed or contracted by the Parkchester Defendants to provide security, and acting in their capacity as agents, servants, and employees of the Parkchester Defendants and within the scope of their employment as such, and further were acting under color of law and with the authority conferred by the City and State of New York.

21. The Parkchester Defendants knew or should have known that the individual defendants were prone to violence, were likely to engage in the use of unjustified physical force, were likely to make arrests without probable cause, and lacked the proper training to carry out the duties to which they were assigned or activities in which they operated without adequate supervision pursuant to the authority conferred by the Parkchester Defendants.

22. PDSP Special Patrolmen Angel Figueroa, Michael Bushrod, Carlos Capella, Leoncio Pimintell, Edward Leon, Patrice London, and Richard Roe 1-4 are hereinafter referred to collectively as the "individual defendants."

23. The individual defendants are being sued in their individual capacities.

24. At all times relevant herein, the individual defendants were acting under color of state law in the course and scope of their duties and functions as agents, servants, employees and officers of the NYPD and PDPS, and otherwise performed and engaged in conduct incidental to the performance of their lawful functions in the course of their duties. They were acting for and on behalf of the NYPD and PDPS at all times relevant herein, with the power and authority vested in them as officers, agents and employees of the NYPD and PDPS and incidental to the lawful pursuit of their duties as officers, employees and agents of the NYPD and PDPS.

25. The individual defendants' acts hereafter complained of were carried out intentionally, recklessly, with malice, and in gross disregard of plaintiff's rights.

26. At all relevant times, the individual defendants were engaged in joint ventures, assisting each other in performing the various actions described herein and lending their physical presence and support and the authority of their offices to one another.

STATEMENT OF FACTS

27. At approximately 8:15 a.m. on October 30, 2014, Mr. Francis was unlawfully arrested by the individual defendants at 64 Metropolitan Oval in Bronx County in the State of New York.

28. Mr. Francis was standing outside a convenience store when he was approached by plain clothed PDPS Special Patrolmen Angel Figueroa, Carlos Capella, Leoncio Pimintell, and Edward Leon.

29. PDPS Special Patrolmen Angel Figueroa, Carlos Capella, Leoncio Pimintell, and Edward Leon approached and encircled Mr. Francis.

30. Mr. Francis attempted to walk away, but was followed by PDPS Special Patrolmen Angel Figueroa, Carlos Capella, Leoncio Pimintell, and Edward Leon.

31. PDPS Special Patrolman Figueroa swung a fist at Mr. Francis.

32. PDPS Special Patrolmen Angel Figueroa, Carlos Capella, Leoncio Pimintell, and Edward Leon encircled Mr. Francis and backed him up into the street.

33. PDPS Special Patrolmen Angel Figueroa kicked at Mr. Francis.

34. Mr. Francis attempted to defend himself.

35. PDPS Special Patrolmen Carlos Capella, Leoncio Pimintell, and Edward Leon continued to watch the attack and moved closer to Mr. Francis as Mr. Francis backed away, placing Mr. Francis in fear.

36. DPS Special Patrolmen Carlos Capella, Leoncio Pimintell, and Edward Leon did not intervene or attempt to prevent the ongoing assault of Mr. Francis despite the opportunity to do so.

37. Mr. Francis escaped the PDPS Special Patrolmen.

38. Mr. Francis informed a PDPS Special Patrolman, Sergeant Patrice London, of his assault by PDPS Special Patrolmen and was told by the Sergeant to go to the PDPS office.

39. At the PDPS office Mr. Francis was brought to a room with Sergeant Patrice London and Richard Roe 1, a man in a suit who identified himself as the head of the PDPS. Mr. Francis informed these individuals of his assault, and that there was video of the incident. Mr. Francis requested they obtain and view the surveillance video.

40. Richard Roe 1 informed Mr. Francis that there was no video.

41. Mr. Francis insisted that video existed.

42. Richard Roe 1 informed Mr. Francis he would go look at the video and left the office.

43. Mr. Francis waited.

44. PDPS Special Patrolmen Richard Roe 2, upon information and belief Michael Bushrod (Shield No. 239), and Richard Roe 3, entered the office and placed handcuffs on Mr. Francis.

45. PDPS Special Patrolmen Sergeant Patrice London and Richard Roe 1 – 3 arrested Mr. Francis without cause.

46. Upon information and belief, PDPS Special Patrolmen Sergeant Patrice London and Richard Roe 1 – 3 reviewed video exonerating Mr. Francis and nonetheless forwarded false charges to the district attorney's office.

47. Upon information and belief, defendants did not investigate Mr. Francis's complaint and withheld the exculpatory video from the district attorney's office.

48. Mr. Francis was taken to the 43rd precinct where he was placed in a cell and held for hours before he was taken to central booking by NYPD officers.

49. As a result of his arrest, Mr. Francis under 24 hours in Defendants' custody.

50. Mr. Francis was charged with Assault in the Third Degree, P.L. § 120.00(1), Menacing, P.L. § 120.15, Menacing in the Second Degree, P.L. § 120.14 (1), and Harassment in the Second Degree, P.L. § 240.26 (1).

51. These charges were based upon the false statements of PDPS Special Patrolmen Angel Figueroa, Carlos Capella, Leoncio Pimintell, and Edward Leon.

52. PDPS Special Patrolmen Angel Figueroa provided a false statement, in his capacity as an officer of the PDPS, to support the criminal complaint filed against Mr. Francis, stating that

Mr. Francis "approached informant with clinched fists" and "struck informant three (3) times in the arms with closed fists."

53. PDPS Special Patrolmen Carlos Capella, Leoncio Pimintell, and Edward Leon provided false statements to facilitate the arrest, detention, and prosecution of Mr. Francis.

54. The individual defendants knew there was no basis for the arrest of Mr. Francis and did not intervene in or prevent the assault, arrest, and prosecution of Mr. Francis.

55. Upon information and belief, the individual defendants knowingly and intentionally acted in concert, conspired, and agreed to bring these false charges against Mr. Francis and to cover up the assault of Mr. Francis. The individual defendants acted to withhold evidence and information about the assault of Mr. Francis and to knowingly and intentionally initiate and pursue false charges against him.

56. Mr. Francis did not commit any unlawful act and there was no probable cause for his arrest.

57. Surveillance video shows PDPS Peace Officer Figueroa approached Mr. Francis and assaulted him without provocation.

58. Mr. Francis was forced to appear in court on four occasions.

59. The charges against Mr. Francis were dismissed by motion of the District Attorney on March 9, 2015.

FIRST CLAIM FOR RELIEF
DEPRIVATION OF RIGHTS
UNDER THE UNITED STATES CONSTITUTION THROUGH 42 U.S.C. §1983
(Against the individual defendants)

60. Plaintiff incorporates by reference the allegations set forth in all preceding paragraphs as if fully set forth herein.

61. By their conduct and actions in falsely arresting and imprisoning plaintiff without probable cause, fabricating and acting to withhold evidence, using excessive force, assaulting him,

unreasonably seizing and searching him, making false statements under oath, maliciously prosecuting him, failing to intercede to prevent the complained of conduct, and by conspiring among defendants to commit the complained of conduct, the individual defendants, acting under color of law and without lawful justification, intentionally, and/or with a deliberate indifference to or a reckless disregard for the natural and probable consequences of their acts, caused injury and damage in violation of plaintiff's constitutional rights as guaranteed through 42 U.S.C. § 1983 and the United States Constitution, including its Fourth and Fourteenth Amendments.

62. As a result of the foregoing, plaintiff was deprived of liberty, suffered emotional distress, humiliation, loss of property, costs and expenses, and was otherwise damaged and injured.

SECOND CLAIM FOR RELIEF
42 U.S.C. § 1983
VIOLATIONS OF THE FOURTH AND FOURTEENTH AMENDMENTS
(*Against the Parkchester Defendants*)

63. Plaintiff incorporates by reference the allegations set forth in all preceding paragraphs as if fully set forth herein.

64. The Parkchester Defendants, collectively and individually, while acting under color of state law, engaged in a policy, practice, procedure or rule of the respective municipality/authority, which is forbidden by the Constitution of the United States.

65. The aforementioned policies, practices, and actions of the Parkchester Defendants include, but are not limited to, the following:

   a. Exhibiting a deliberate indifference to the aggressive and violent actions or propensities of the PDSP Special Patrolmen hired, contracted, employed, and supervised.

b. Ineffectively training employees in identifying what constitutes the Constitutionally permissible bounds of the authority conferred unto them as PDSP Special Patrolmen.

c. Systematically creating an environment where employees fail to use due diligence when exercising the authority conferred unto them as PDSP Special Patrolmen; and

d. Exhibiting a deliberate indifference to verifying whether or not a seizure, stop, arrest, or use of force was/is Constitutionally permissible.

e. Providing ineffective oversight and supervision of the activities and arrests effectuated by or at the behest of PDSP Special Patrolmen.

f. Failing to institute remedial measures or other disincentives for PDSP Special Patrolmen who violate Constitutional rights.

66. The existence of aforesaid unconstitutional customs and policies may be inferred from repeated occurrences of similar wrongful conduct, as documented - in part - below:

a. **Date Unknown / Birts v. The Parkchester North Condominiums, et al., 008113/1999 (Bronx Civil Supreme), 00 CV 3124 (KMV) (S.D.N.Y.)(removed and remanded)**
Assault allegations against the Parkchester Defendants and PDSP Special Patrolmen.

b. **August 30, 1998 / Payne, Payne v. Parkchester North Condominiums, et al., 00 CV 4253 (HBP) (S.D.N.Y.)**
Cardell Payne was assaulted by PDSP Special Patrolmen, who beat him with fist and club and pepper sprayed him causing him to be rendered unconscious, before he was falsely arrested and maliciously prosecuted for disorderly conduct and resisting arrest.

c. **January 7, 1999 / Parrish, Watson v. Parkchester South Condominium, Inc., et al., 023805/1999 (Bronx Civil Supreme)**
False arrest, false imprisonment, excessive force, an malicious prosecution allegations against the Parkchester Defendants and PDSP Special Patrolmen pursuant to 42 U.S.C. § 1983.

d. **April 20, 2004 / Berry v. Parkchester South Condominium, Inc., et al., 006615/2005 (Bronx Civil Supreme)**
PDSP Special Patrolmen subjected Mr. Berry to excessive force and false arrest, before forwarding false information to the District Attorney's Office.

e. **Date Unknown / Joseph Lewis Sr. v. Parkchester South Condominium, Inc., et al., 023606/2006 (Bronx Civil Supreme)**
Allegations against the Parkchester Defendants and PDSP Special Patrolmen pursuant to 42 U.S.C. § 1983.

f. **June 23, 2006 / Sherrllis, et al. v. Parkchester South Condominium, Inc., et al., 310577/2008 (Bronx Civil Supreme)**
Alleging severe and permanent injury after plaintiff was assaulted, falsely arrested, and strip searched by PDSP Special Patrolmen and officers of the NYPD, who thereafter forwarded false information to the District Attorney's Office resulting in a lengthy false imprisonment and parole violation.

g. **June 23, 2006 / Moye v. Parkchester South Condominium, Inc., et al., 016367/2007 (Bronx Civil Supreme)**
Ms. Moye was subjected to excessive force and police brutality by PDSP Special Patrolmen.

h. **November 2, 2007 / Brown, Hodge v. The City of New York, et al., 09 CV 7455 (RMB)(RLE)(S.D.N.Y.)**
Plaintiffs, with no prior or subsequent criminal record, were falsely arrested by PDSP Special Patrolmen for trespass inside an apartment building to which they had been invited by a resident. The PDSP Special Patrolmen utilized excessive force against plaintiffs.

i. **Date Unknown / Dennis v. The City of New York, et al., 10 CV 1783 (LAP)(S.D.N.Y.)**
Allegations against the Parkchester Defendants and PDSP Special Patrolmen.

j. **July 14, 2011 / Vasquez v. S.P.O. Mestre, et al., 12 CV 2047 (JGK)(S.D.N.Y.)**
A man with cerebral palsy, who had never been arrested before, left an apartment at 1541 Metropolitan Avenue in the Parkchester neighborhood when PDSP Special Patrolmen and officers of the NYPD demanded his identification, and then arrested him for trespass without probable cause. False information was forwarded to the District Attorney's Office, but the charges against Mr. Vasquez were eventually dismissed.

k. **October 14, 2012 / Ruiz v. Parkchester South Condominium, Inc., et al., 13 CV 7214 (NRB)(S.D.N.Y.)**
A twenty-two year old resident of the neighborhood was stopped on the street by PDSP Special Patrolmen, who demanded identification and then without provocation forced him to the ground. Mr. Ruiz was handcuffed with excessive force, placed in a police vehicle, and the PDSP Special Patrolmen continued to utilize excessive force against him - including pepper spraying Mr. Ruiz while he sat handcuffed in the back seat of the vehicle, before closing the door. They refused to allow his mother to give him an inhaler. After falsely imprisoning Mr. Ruiz and pursuing false charges through trial, all charges were dismissed by the court.

l. **April 10, 2014 / Simon, et al. v. The City of New York, et al., 14 CV 8391 (JMF)(S.D.N.Y.)**
Five individuals walking down a street in the Parkchester neighborhood were unlawfully stopped, searched, dragged, assaulted, falsely arrested, and falsely imprisoned, without probable cause by joint action of the PDSP Special Patrolmen and officers of the NYPD. The District Attorney declined to prosecute any of plaintiffs in addition to at least five individuals falsely arrested in similarly fashion at the same time, date, and location.

m. **Date Unknown / Portorreal, et al. v. Parkchester South Condominium, Inc., et al., 301310/2015 (Bronx Civil Supreme)**
Alleging individual defendant officer Michael Bushrod of PDSP – also a defendant in Mr. Francis' case – falsely arrested and assaulted plaintiffs as captured on video.

67. At all times material to this complaint, Parkchester Defendants, acting through their employees and agents, and through the individual defendants had de facto policies, practices, customs and usages, which were a direct and proximate cause of the unconstitutional conduct alleged herein.

68. At all times material to this complaint, Parkchester Defendants, acting through their employees and agents (including their officers, mangers and security personnel), and through the individual defendants, had de facto policies, practices, customs, and usages of failing to properly train, screen, supervise, or discipline its employees and agents, and of failing to inform the individual defendants' supervisors, of their need to train, screen, supervise, or discipline said employees and agents. These policies, practices, customs, and usages were a direct and proximate cause of the unconstitutional conduct alleged herein.

69. As a result of the foregoing, Plaintiff was deprived of his liberty and property, suffered emotional distress, humiliation, and was otherwise damaged and injured.

THIRD CLAIM FOR RELIEF
MALICIOUS PROSECUTION
UNDER THE LAWS OF THE STATE OF NEW YORK
(Against all defendants)

70. Plaintiff incorporates by reference the allegations set forth in all preceding paragraphs as if fully set forth herein.

71. By the actions described above (including but not limited to PDPS Special Patrolmen Angel Figueroa, Carlos Capella, Leoncio Pimintell, Edward Leon, Michael Bushrod, Sergeant Paul, and Richard Roes 1-3) forwarding false information to police officers and officials of the District Attorney's Office), the individual defendants caused a criminal proceeding to be initiated against Plaintiff, even though there was no probable cause for an arrest or prosecution in this matter. The individual defendants maliciously caused this prosecution to be initiated in that they knew there was no probable cause for such prosecution and that they further wished to harm and punish Plaintiff for illegitimate reasons and to cover for the individual defendants' misdeeds. The criminal case against Plaintiff was terminated in his favor in that all charges were dismissed.

72. The conduct of the individual defendants alleged herein occurred while they were on duty and/or in and during the course and scope of their duties and functions as PDPS Special Patrolmen, and/or while they were acting as agents and employees of the Parkchester Defendants, clothed with and/or invoking state power and/or authority, and, as a result, the Parkchester Defendants are liable to Plaintiff pursuant to the state common law doctrine of respondeat superior.

73. As a result of the foregoing, Plaintiff was deprived of his liberty and property, suffered emotional distress, humiliation, and was otherwise damaged and injured.

FOURTH CLAIM FOR RELIEF
ABUSE OF PROCESS
UNDER THE LAWS OF THE STATE OF NEW YORK
(*Against all defendants*)

74. Plaintiff incorporates by reference the allegations set forth in all preceding paragraphs as if fully set forth herein.

75. By the conduct and actions described above, the individual defendants caused regularly issued process to be issued against Plaintiff, compelling the performance or forbearance of prescribed acts, including but not limited to causing criminal process to issue. The purpose of activating the process was intent to harm Plaintiff without economic or social excuse or justification, and the individual defendants were seeking a collateral advantage or corresponding detriment to Plaintiff, including but not limited to covering for their own misdeeds, by causing Plaintiff to be charged with crimes, a goal which was outside the legitimate ends of the process. The acts and conduct of the individual defendants were the direct and proximate cause of injury and damage to Plaintiff and violated his statutory and common law rights as guaranteed by the laws and Constitution of the State of New York.

76. The conduct of the individual defendants alleged herein occurred while they were on duty, and/or in and during the course and scope of their duties and functions as PDPS Special Patrolmen, and/or while they were acting as agents and employees of the Parkchester Defendants, clothed with and/or invoking state power and/or authority, and, as a result, the Parkchester Defendants are liable to Plaintiff pursuant to the state common law doctrine of respondeat superior.

77. As a result of the foregoing, Plaintiff was deprived of his liberty and property, suffered emotional distress, humiliation, and was otherwise damaged and injured.

FIFTH CLAIM FOR RELIEF
NEGLIGENCE
UNDER THE LAWS OF THE STATE OF NEW YORK
(*Against all defendants*)

78. Plaintiff incorporates by reference the allegations set forth in all preceding paragraphs as if fully set forth herein.

79. Defendants owed a duty of care to Plaintiff to prevent the physical, mental, and economic damages sustained by Plaintiff. Under the same or similar circumstances, a reasonable, prudent, and careful person would have anticipated that an injury to Plaintiff or to those in a like situation would probably result from this conduct.

80. Defendants jointly and severally, negligently caused injury, pain and suffering, emotional distress, and damage to Plaintiff. The acts and conduct of defendants were the direct and proximate cause of injury and damage to Plaintiff and violated his statutory and common law rights as guaranteed by the laws and Constitution of the State of New York.

81. The Parkchester Defendants negligently hired, screened, retained, supervised, and trained the individuals defendants.

82. Upon information and belief, the PDPS Special Patrolmen were unfit and incompetent for their positions as peace officers and/or Special Patrolmen.

83. Upon information and belief, the Parkchester Defendants knew or should have known through the exercise of reasonable diligence that the PDPS Special Patrolmen were dangerous.

84. The acts and conduct of the Parkchester Defendants were the direct and proximate cause of injury and damage to Plaintiff and violated his statutory and common law rights as guaranteed by the laws and Constitution of the State of New York.

85. The acts and conduct of the individual defendants were the direct and proximate cause of injury and damage to Plaintiff and violated his statutory and common law rights as guaranteed by the laws and Constitution of the State of New York.

SIXTH CLAIM FOR RELIEF
RESPONDEAT SUPERIOR LIABILITY
UNDER THE LAWS OF THE STATE OF NEW YORK
(*Against the Parkchester Defendants*)

86. Plaintiff incorporates by reference the allegations set forth in the preceding paragraphs as if fully set forth herein.

87. The conduct of the individual defendants as alleged herein, occurred while they were on duty and in uniform, and/or in and during the course and scope of their duties and functions as police officers, Special Patrolmen, and/or while they were acting as agents and employees of the Parkchester Defendants and, as a result, the Parkchester Defendants, are liable to the plaintiff pursuant to state common law doctrine of respondeat superior.

88. As a result of the foregoing, Plaintiff was deprived of his liberty and property, suffered emotional distress, humiliation, and was otherwise damaged and injured.

SEVENTH CLAIM FOR RELIEF
NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS
UNDER THE LAWS OF THE STATE OF NEW YORK
(*Against all defendants*)

89. Plaintiff incorporates by reference the allegation set forth in all preceding paragraphs as if fully set forth herein.

90. By the actions described above, defendants engaged in extreme and outrageous conduct, which negligently caused severe emotion distress to Plaintiff. The acts and conduct of the defendants were the direct and proximate cause of injury and damage to the Plaintiff and

violated his statutory and common law rights as guaranteed by the laws and Constitution of the State of New York.

91. As a result of the foregoing, Plaintiff was deprived of his liberty and property, suffered emotional distress, humiliation, and was otherwise damaged and injured.

JURY DEMAND

92. Plaintiff demands a trial by jury in this action on each and every one of his damage claims.

WHEREFORE, plaintiff demands judgment against the defendants individually and jointly and prays for relief as follows:

a. That he be compensated for violation of his constitutional rights, pain, suffering, mental anguish, and humiliation; and

b. That he be awarded punitive damages against the individual defendants; and

c. That he be compensated for attorneys' fees and the costs and disbursements of this action; and

d. For such other further and different relief as to the Court may seem just and proper.

Dated: New York, New York
November 4, 2016

Respectfully submitted,

By: ______________________

Gillian Cassell-Stiga
David B. Rankin
Rankin & Taylor, PLLC
Attorneys for the Plaintiff
11 Park Place, Suite 914
New York, New York 10007
t: 212-226-4507
e: Gillian@DRMTLaw.com